

TERMED, VALDEZ

**United States District Court**  
**Northern District of Illinois - CM/ECF LIVE, Ver 6,1 (Chicago)**  
**CIVIL DOCKET FOR CASE #: 1:09-cv-00374**

White et al v. City of Chicago et al  
Assigned to: Honorable Milton I. Shadur  
Case in other court: Circuit Court of Cook County, 08 L 14170  
Cause: 42:1983 Civil Rights Act

Date Filed: 01/21/2009  
Date Terminated: 04/14/2010  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Gwendolyn White**

represented by **Richard J. Dvorak**  
Law Offices of Richard Dvorak  
18W140 Butterfield Road  
15th Floor  
Oak Brook Terrace, IL 60181  
312-593-7146  
Fax: 312-276-4868  
Email:  
richard.dvorak@civilrightsdefenders.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Brian Joseph Barrido**  
Barrido & Robison, LLC  
53 W. Jackson Boulevard  
Suite 1625  
Chicago, IL 60604  
773-672-7400  
Fax: 773-672-7400  
Email: brian@brchicago.com  
*ATTORNEY TO BE NOTICED*

**Matthew Robison**  
Barrido & Robison, LLC  
140 S. Dearborn Street  
Suite 404  
Chicago, IL 60606  
773-672-7400  
Fax: 773-672-7400  
Email: matthew@brchicago.com  
*ATTORNEY TO BE NOTICED*

**Neil L. Toppel**

Law Offices of Neil L. Toppel  
200 S. Michigan Avenue  
Suite 201

Chicago, IL 60604

312-663-9500

Email:

neil.toppel@civilrightsdefenders.com

*TERMINATED: 03/03/2010*

**Plaintiff**

**Andre Bell**

represented by **Richard J. Dvorak**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Brian Joseph Barrido**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Matthew Robison**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Neil L. Toppel**

(See above for address)

*TERMINATED: 03/03/2010*

**Plaintiff**

**Devin Spencer**

*next of friend*

Danielle Terry Spencer

represented by **Richard J. Dvorak**

(See above for address)

*LEAD ATTORNEY*

*ATTORNEY TO BE NOTICED*

**Brian Joseph Barrido**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Matthew Robison**

(See above for address)

*ATTORNEY TO BE NOTICED*

**Neil L. Toppel**

(See above for address)

*TERMINATED: 03/03/2010*

**Plaintiff**

**Dwayne Spencer**  
*next of friend*  
Danielle Terry Spencer

represented by **Richard J. Dvorak**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Brian Joseph Barrido**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Matthew Robison**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Neil L. Toppel**  
(See above for address)  
**TERMINATED: 03/03/2010**

V.

**Defendant**

**City of Chicago**  
*a municipal corporation*

represented by **Megan Kelly McGrath**  
Taft Stettinius & Hollister LLP  
111 East Wacker Drive  
Suite 2800  
Chicago, IL 60601  
(312) 836 4035  
Email: mmcgrath@taftlaw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Scott J. Jebson**  
City of Chicago (30 N LS)  
30 North LaSalle Street  
Chicago, IL 60602  
(312) 744-6959  
Email: sjebson@cityofchicago.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Naomi Ann Avendano**  
City of Chicago (30 N LS)  
30 North LaSalle Street  
Chicago, IL 60602  
(312) 742-7880  
Email: navendano@cityofchicago.org  
**ATTORNEY TO BE NOTICED**

**Defendant****Russ Willingham***A Chicago Police Officer, Star #3664*represented by **Megan Kelly McGrath**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED****Scott J. Jebson**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED****Defendant****A.J. Martin***a Chicago Police Officer, Star #14313*represented by **Megan Kelly McGrath**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED****Defendant****Lance Handzell***Star #8116*represented by **Megan Kelly McGrath**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED****Scott J. Jebson**

(See above for address)

**LEAD ATTORNEY****ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b><a href="#">clear</a></b>	<b>Docket Text</b>
01/21/2009	<a href="#">1</a>	<input type="checkbox"/> 0.99MB	RECEIVED NOTICE of Removal from Circuit Court of Cook County with copy of complaint and Summons, case number (2008 L 014170) filed by Defendants Russ Willingham, A.J. Martin, Lance Handzell, City of Chicago. (Attachments: # <a href="#">1</a> Exhibit A)(ca, ). (Entered: 01/21/2009)
01/21/2009	<a href="#">2</a>	<input type="checkbox"/> 309.09KB	CIVIL Cover Sheet. (ca, ) (Entered: 01/21/2009)
01/21/2009	<a href="#">3</a>	<input type="checkbox"/> 188.02KB	ATTORNEY Appearance for Defendant City of Chicago by Naomi Ann Avendano. (ca, ) (Entered: 01/21/2009)
01/29/2009	<a href="#">4</a>	<input type="checkbox"/> 17.14KB	MINUTE entry before the Honorable Milton I. Shadur: Status hearing set for 2/23/2009 at 09:00 AM.Mailed notice (srn, ) (Entered: 01/29/2009)
02/18/2009	<a href="#">5</a>	<input type="checkbox"/> 32.35KB	ATTORNEY Appearance for Defendant City of Chicago by Megan Kelly McGrath (McGrath, Megan) (Entered: 02/18/2009)
02/18/2009	<a href="#">6</a>	<input type="checkbox"/> 35.26KB	MOTION by Defendant City of Chicago for extension of time to file answer <b>AGREED</b> (McGrath, Megan) (Entered: 02/18/2009)

02/18/2009	<a href="#">7</a>	<input type="checkbox"/> 35.06KB	NOTICE of Motion by Megan Kelly McGrath for presentment of motion for extension of time to file answer <a href="#">6</a> before Honorable Milton I. Shadur on 2/23/2009 at 09:15 AM. (McGrath, Megan) (Entered: 02/18/2009)
02/20/2009	<a href="#">8</a>	<input type="checkbox"/> 4.09KB	MINUTE entry before the Honorable Milton I. Shadur:Motion for extension of time to answer to and including March 30, 2009 <a href="#">6</a> is granted. Status hearing reset for 4/7/2009 at 09:00 AM. The February 23, 2009 status date is vacated.Mailed notice (srn, ) (Entered: 02/20/2009)
03/30/2009	<a href="#">9</a>	<input type="checkbox"/> 37.57KB	MOTION by Defendant City of Chicago for extension of time <i>to answer or otherwise plead AGREED</i> (McGrath, Megan) (Entered: 03/30/2009)
03/30/2009	<a href="#">10</a>	<input type="checkbox"/> 34.78KB	<i>Certificate of Service and</i> NOTICE of Motion by Megan Kelly McGrath for presentment of extension of time <a href="#">9</a> before Honorable Milton I. Shadur on 4/3/2009 at 09:15 AM. (McGrath, Megan) (Entered: 03/30/2009)
03/31/2009	<a href="#">11</a>	<input type="checkbox"/> 4.10KB	MINUTE entry before the Honorable Milton I. Shadur:Motion for extension of time to answer or otherwise plead to and including April 20, 2009 <a href="#">9</a> is granted. Status hearing reset for 4/27/2009 at 09:00 AM. The April 8, 2009 status hearing is vacated.Mailed notice (srn, ) (Entered: 03/31/2009)
04/08/2009	<a href="#">12</a>	<input type="checkbox"/> 43.61KB	ATTORNEY Appearance for Plaintiffs Gwendolyn White, Andre Bell, Devin Spencer, Dwayne Spencer by Brian Joseph Barrido <i>Barrido Appearance</i> (Barrido, Brian) (Entered: 04/08/2009)
04/08/2009	<a href="#">13</a>	<input type="checkbox"/> 42.54KB	ATTORNEY Appearance for Plaintiffs Gwendolyn White, Andre Bell, Devin Spencer, Dwayne Spencer by Neil L. Toppel <i>Toppel Appearance</i> (Toppel, Neil) (Entered: 04/08/2009)
04/08/2009	<a href="#">14</a>	<input type="checkbox"/> 44.11KB	ATTORNEY Appearance for Plaintiffs Gwendolyn White, Andre Bell, Devin Spencer, Dwayne Spencer by Matthew Charles Robison <i>Robison Appearance</i> (Robison, Matthew) (Entered: 04/08/2009)
04/20/2009	<a href="#">15</a>	<input type="checkbox"/> 365.96KB	MOTION by Defendant City of Chicago to stay (Attachments: # <a href="#">1</a> Exhibit A - Complaint)(McGrath, Megan) (Entered: 04/20/2009)
04/20/2009	<a href="#">16</a>	<input type="checkbox"/> 34.24KB	NOTICE of Motion by Megan Kelly McGrath for presentment of motion to stay <a href="#">15</a> before Honorable Milton I. Shadur on 4/23/2009 at 09:15 AM. (McGrath, Megan) (Entered: 04/20/2009)
04/23/2009	<a href="#">17</a>	<input type="checkbox"/> 32.72KB	ATTORNEY Appearance for Defendants Russ Willingham, A.J. Martin, Lance Handzell by Megan Kelly McGrath (McGrath, Megan) (Entered: 04/23/2009)
04/23/2009	<a href="#">18</a>	<input type="checkbox"/> 4.13KB	MINUTE entry before the Honorable Milton I. Shadur:Motion to stay <a href="#">15</a> is denied in accordance with this Court's oral ruling. Motion hearing held on 4/23/2009. Status hearing set for 6/23/2009 at 09:00 AM. Defendants' Answer is due on or before May 21, 2009. The April 27 status date is vacated.Mailed notice (srn, ) (Entered: 04/23/2009)
05/26/2009	<a href="#">19</a>	<input type="checkbox"/> 113.80KB	MOTION by Defendants Russ Willingham, A.J. Martin, Lance Handzell, City of Chicago to file instanter <i>their Answer, Defenses, and Jury Demand to Plaintiffs Complaint</i> (Attachments: # <a href="#">1</a> Exhibit)(McGrath, Megan) (Entered: 05/26/2009)

			05/26/2009)
05/27/2009	<a href="#">20</a>	<input type="checkbox"/> 33.79KB	NOTICE of Motion by Megan Kelly McGrath for presentment of motion to file instanter <a href="#">19</a> before Honorable Milton I. Shadur on 5/29/2009 at 09:15 AM. (McGrath, Megan) (Entered: 05/27/2009)
05/29/2009	<a href="#">21</a>	<input type="checkbox"/> 4.07KB	MINUTE entry before the Honorable Milton I. Shadur:Motion to file instanter <a href="#">19</a> is entered and continued to June 8, 2009 at 9:00 a.m. Motion hearing held on 5/29/2009 regarding motion to file instanter <a href="#">19</a> Mailed notice (srn, ) (Entered: 05/29/2009)
06/08/2009	<a href="#">22</a>	<input type="checkbox"/> 4.08KB	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 6/8/2009. Simultaneous responses to defendant's motion for leave to file instanter are due on or before June 29, 2009. The June 23 status date is vacated.Mailed notice (srn, ) (Entered: 06/08/2009)
06/29/2009	<a href="#">23</a>	<input type="checkbox"/> 74.55KB	MOTION by Defendants Russ Willingham, A.J. Martin, Lance Handzell, City of Chicago to dismiss Counts I, II and III to plaintiff's complaint (McGrath, Megan) Modified on 6/30/2009 (cdy, ). (Entered: 06/29/2009)
06/29/2009	<a href="#">24</a>	<input type="checkbox"/> 6.57MB	RESPONSE by Gwendolyn White, Devin Spencer, Dwayne Spencerin Opposition to MOTION by Defendants Russ Willingham, A.J. Martin, Lance Handzell, City of Chicago to dismiss <a href="#">23</a> (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J)(Dvorak, Richard) (Entered: 06/29/2009)
06/29/2009	<a href="#">25</a>	<input type="checkbox"/> 36.87KB	NOTICE by all plaintiffs re response in opposition to motion, <a href="#">24</a> to dismiss <i>filed by Defendants</i> (Dvorak, Richard) (Entered: 06/29/2009)
07/01/2009	<a href="#">26</a>	<input type="checkbox"/> 4.02KB	MINUTE entry before the Honorable Milton I. Shadur: Status hearing set for 7/10/2009 at 08:45 AM.Mailed notice (srn, ) (Entered: 07/01/2009)
07/07/2009	<a href="#">27</a>	<input type="checkbox"/> 4.31KB	MINUTE entry before the Honorable Milton I. Shadur: Enter Memorandum Opinion and Order. In summary, then, defendants' Rule 12(b)(6) defense on limitations grounds is rejected outright. Defendants' existing Answer will stand, except to the extent that this Court has earlier found some of defendants' affirmative defenses ("ADs") to be flawed. This ruling does not of course foreclose plaintiff's right to challenge other ADs advanced by defendants. Finally, the previously scheduled July 10 status hearing date remains in effect for purposes of discussing the future course of this litigation. <a href="#">23</a> Mailed notice (srn, ) (Entered: 07/07/2009)
07/07/2009	<a href="#">28</a>	<input type="checkbox"/> 43.26KB	MEMORANDUM Opinion and Order Signed by the Honorable Milton I. Shadur on 7/7/2009:Mailed notice(srn, ) (Entered: 07/07/2009)
07/10/2009	<a href="#">29</a>	<input type="checkbox"/> 4.08KB	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 7/10/2009. Status hearing set for 9/9/2009 at 09:00 AM. Exchange of 26(a)(1) disclosures to be completed by July 24, 2009.Mailed notice (srn, ) (Entered: 07/10/2009)

09/09/2009	<a href="#">30</a>	<input type="checkbox"/> 4.04KB	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 9/9/2009. Status hearing set for 11/17/2009 at 09:00 AM.Mailed notice (srn, ) (Entered: 09/09/2009)
11/17/2009	<a href="#">31</a>	<input type="checkbox"/> 4.04KB	MINUTE entry before the Honorable Milton I. Shadur:Status hearing held on 11/17/2009. Status hearing set for 1/14/2010 at 09:00 AM.Mailed notice (srn, ) (Entered: 11/17/2009)
01/14/2010	<a href="#">32</a>	<input type="checkbox"/> 4.04KB	MINUTE entry before Honorable Milton I. Shadur:Status hearing held on 1/14/2010. Status hearing set for 3/18/2010 at 09:00 AM.Mailed notice (srn, ) (Entered: 01/14/2010)
01/15/2010	<a href="#">33</a>	<input type="checkbox"/> 1.46MB	MOTION by Plaintiff Gwendolyn Whiteto Dismiss Count I and for the Court to Exercise Supplemental Jurisdiction (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B)(Dvorak, Richard) (Entered: 01/15/2010)
01/15/2010	<a href="#">34</a>	<input type="checkbox"/> 37.94KB	NOTICE of Motion by Richard J. Dvorak for presentment of motion for miscellaneous relief <a href="#">33</a> before Honorable Milton I. Shadur on 1/21/2010 at 09:15 AM. (Dvorak, Richard) (Entered: 01/15/2010)
01/21/2010	<a href="#">35</a>	<input type="checkbox"/> 4.06KB	MINUTE entry before Honorable Milton I. Shadur:Motion to dismiss <a href="#">33</a> is granted in accordance with this Court's oral ruling. Motion hearing held on 1/21/2010. Mailed notice (srn, ) (Entered: 01/21/2010)
02/26/2010	<a href="#">36</a>	<input type="checkbox"/> 104.95KB	MOTION by counsel for Plaintiffs Andre Bell, Devin Spencer, Dwayne Spencer, Gwendolyn White to withdraw as attorney (Toppel, Neil) (Entered: 02/26/2010)
02/26/2010	<a href="#">37</a>	<input type="checkbox"/> 102.76KB	NOTICE of Motion by Neil L. Toppel for presentment of motion to withdraw as attorney <a href="#">36</a> before Honorable Milton I. Shadur on 3/4/2010 at 09:15 AM. (Toppel, Neil) (Entered: 02/26/2010)
03/03/2010	<a href="#">38</a>	<input type="checkbox"/> 4.04KB	MINUTE entry before Honorable Milton I. Shadur:Motion to withdraw as attorney <a href="#">36</a> is granted; Attorney Neil L. Toppel terminated.Mailed notice (srn, ) (Entered: 03/03/2010)
03/16/2010	<a href="#">39</a>	<input type="checkbox"/> 4.04KB	MINUTE entry before Honorable Milton I. Shadur:At the request of counsel the Status hearing is reset for 5/6/2010 at 09:00 AM.Mailed notice (srn, ) (Entered: 03/16/2010)
04/09/2010	<a href="#">40</a>	<input type="checkbox"/> 47.51KB	AGREED MOTION by Plaintiffs Andre Bell, Devin Spencer, Dwayne Spencer, Gwendolyn White to substitute party (Barrido, Brian) Modified on 4/12/2010 (cdy, ). (Entered: 04/09/2010)
04/09/2010	<a href="#">41</a>	<input type="checkbox"/> 60.74KB	NOTICE of Motion by Brian Joseph Barrido for presentment of motion to substitute party <a href="#">40</a> before Honorable Milton I. Shadur on 4/14/2010 at 09:15 AM. (Barrido, Brian) (Entered: 04/09/2010)
04/12/2010	<a href="#">42</a>	<input type="checkbox"/> 26.64KB	ATTORNEY Appearance for Defendants City of Chicago, Lance Handzell, Russ Willingham by Scott J. Jebson (Jebson, Scott) (Entered: 04/12/2010)
04/14/2010	<a href="#">43</a>	<input type="checkbox"/> 4.17KB	MINUTE entry before Honorable Milton I. Shadur:MOTION to substitute party <a href="#">40</a> is granted. Devon Spencer is substituted as plaintiff in place of

		Danielle Terry Spencer as mother and next of kin. Motion hearing held on 4/14/2010 regarding motion to substitute party <a href="#">40</a> On joint oral motion this action is hereby dismissed with prejudice. Civil case terminated. Mailed notice (srn, ) (Entered: 04/14/2010)
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

<b>Gwendolyn White, Andre Bell, Danielle</b>	)	
<b>Terry Spencer, mother and next of kin for</b>	)	
<b>and on behalf of her minor son, Devin</b>	)	
<b>Spencer and Dwayne Spencer,</b>	)	Case No.
	)	
Plaintiff,	)	RECEIVED: JANUARY 21, 2009
vs.	)	09CV374
	)	JUDGE SHADUR
<b>City of Chicago, a municipal corporation,</b>	)	MAGISTRATE JUDGE VALDEZ
<b>Russ Willingham, Star #3664, a Chicago</b>	)	CH
<b>Police Officer, A.J. Martin, Star #14313, a</b>	)	
<b>Chicago Police Officer, Lance Handzell,</b>	)	
<b>Star #8116,</b>	)	
	)	
Defendants.	)	

NOTICE OF REMOVAL

Defendant City of Chicago, by one of its attorneys, Naomi Avendano, Deputy Corporation Counsel of the City of Chicago, respectfully removes the above entitled action to this Court, pursuant to 28 U.S.C. §1441(b) and (c), §1446, and on the following grounds:

1. Defendants City of Chicago, Russ Willingham, Anthony Martin, and Lance Handzell were named as defendants in a civil action filed on December 24, 2008, in the Circuit Court of Cook County of the State of Illinois, case number 08 L 14170, entitled Gwendolyn White, et al., v. City of Chicago, et al..

2. The summons and complaint were served upon the City of Chicago's Police Department on or about January 9, 2009; Chicago Police Personnel Russ Willingham, Anthony Martin, and Lance Handzell have not yet been served but upon information and belief they will not oppose the removal. See summons and complaint attached hereto as Exhibit A.

3. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 and Illinois common law. Plaintiffs allege that the defendants falsely arrested and used excessive force against them in violation of their rights under the fourth and fourteenth amendments of the United States Constitution. Plaintiffs also bring claims pursuant to Illinois law.

4. Defendants are entitled to remove this action to this court, pursuant to 28 U.S.C. §1441(b) and (c).

5. It appears from the face of plaintiffs' complaint that this is, primarily, a civil rights action which arises under the United States Constitution and involves federal questions. Plaintiffs' complaint alleges, among other things, that the defendants violated the rights of the plaintiffs as guaranteed by the United States Constitution.

WHEREFORE, defendant City of Chicago respectfully requests that the above-entitled action now pending in the Circuit Court of Cook County in the State of Illinois, case number 08 L 14170, be removed therefrom to this Court.

Respectfully submitted,

/s/ Naomi Avendano  
Naomi Avendano  
Deputy Corporation Counsel

30 N. LaSalle St., Suite 1400  
Chicago, IL 60602  
(312) 742-7880  
Atty. No. 06203689

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

GWENDOLYN WHITE,  
ANDRE BELL, DANIELLE  
TERRY SPENCER, mother  
and next of kin for and on behalf of her  
minor son, DEVIN SPENCER, and  
DWAYNE SPENCER,

Plaintiffs,

vs.

CITY OF CHICAGO,  
a municipal corporation,  
RUSS WILLINGHAM, Star #3664,  
a Chicago Police Officer,  
A.J. MARTIN, Star # 14313,  
a Chicago Police Officer,  
LANCE HANDZEL, Star #8116

Defendants.

09CV374

JUDGE SHADUR

MAGISTRATE JUDGE VALDEZ

CH

2008L014170  
CALENDAR/ROOM D  
TIME 00:00  
Tort - Intentional

COMPLAINT

1. This incident occurred on or about August 6, 2006, in the City of Chicago, Cook County, Illinois. This case was originally filed on March 8, 2007, within one year of the incident, as two separate cases: Gwendolyn White v. City of Chicago and Russ Willingham (Case No. 2007-L-002479); and the remaining above Plaintiffs v. all of the above Defendants (Case No. 2007-L-002481). The cases were later consolidated by the court, and eventually dismissed by the court for want of prosecution on April 9, 2008.

2. This case is a permissible re-filing within one year of the statute of limitations period, pursuant to Illinois' Savings Clause Statute (735 ILCS 5/13-217), and the federal counts

relate back to the allegations made in the original complaint. In addition, one Plaintiff in this case, Devin Spencer, D.O.B. 4-20-91, was a minor at the time of the incident, and is still a minor at the time of this incident, and thus, for this additional reason, all of his claims are within the applicable statute of limitations period.

3. At all relevant times pertaining to this occurrence, the Plaintiffs were residents of Cook County, Illinois, and this incident occurred in the City of Chicago, County of Cook, State of Illinois.

4. At the time of the occurrence, Defendant City of Chicago was a municipal corporation, and the principal employer of Defendant Chicago Police Officers Willingham, Martin, and Handzel, who were each acting under color of law and in the course and scope of their employment with the City of Chicago.

5. On or about August 6, 2006, Defendant Willingham, in the course and scope of his duties as a Chicago Police Officer, and acting under color of law, willfully, wantonly, intentionally, and maliciously, without any cause or provocation, shot Plaintiff Gwendolyn White in the right buttock, causing her serious physical and emotional pain and suffering, disability, and disfigurement.

7. During this same incident, Defendants Willingham, Martin, and Handzel, in the course and scope of their duties as Chicago Police Officers, and acting under color of law, knowingly and intentionally falsely arrested, charged, imprisoned, and prosecuted Plaintiffs Devin Spencer, Dwayne Spencer, and Andre Bell in relation to criminal charges to which there was no probable cause, and thus there was no lawful justification for these Defendants' actions.

8. During this same incident, Defendants Willingham, Martin, and Handzel, without

cause of justificaion, twisted Plaintiff Andre Bell's arms behind his back, and put handcuffs on him and pulled and tugged on the handcuffs in an unjustifiably painful manner, causing the Plaintiff severe physical and mental pain and suffering.

COUNT I – Section 1983 – Excessive Force – Plaintiff Gwendolyn White Against Defendant Russ Willingham

9. The Plaintiff realleges what has previously been alleged in this Complaint.

10. In taking the actions described above, Defendant Willingham willfully and wantonly used excessive force on the Plaintiff, the proximate cause of which was the Plaintiff's damages, described more fully above.

WHEREFORE, the Plaintiff demands compensatory damages against Defendant Willingham, plus the costs of this action, and any such other and additional relief as this Court deems equitable and just.

COUNT II – Section 1983 – False Arrest – Plaintiffs Andre Bell, Danielle Terry Spencer on behalf of Devin Spencer, and Dwayne Spencer against Defendants Willingham, Martin, and Handzel.

11. The Plaintiffs reallege what has previously been alleged in this Complaint.

12. In taking the actions described above, Defendants Willingham, Martin, and Handzel willfully and wantonly falsely arrested Plaintiffs Bell, Devin Spencer and Dwayne Spencer, the proximate cause of which was the Plaintiffs' damages, described more fully above.

WHEREFORE, the Plaintiffs demands compensatory damages against Defendants Willingham, Martin, and Handzel, plus the costs of this action, and any such other and additional relief as this Court deems equitable and just.

COUNT III – Section 1983 – Excessive Force – Plaintiff Andre Bell Against Defendants

Willingham, Martin and Handzel.

13. The Plaintiff realleges what has previously been alleged in this Complaint.

14. In taking the actions described above, Defendants Willingham, Martin, and Handzel willfully and wantonly used excessive force on the Plaintiff, the proximate cause of which was the Plaintiff's damages, described more fully above.

WHEREFORE, the Plaintiff demands compensatory damages against Defendants Willingham, Martin, and Handzel, plus the costs of this action, and any such other and additional relief as this Court deems equitable and just.

COUNT IV – Plaintiffs against the City of Chicago (Indemnification for Federal Claims)

15. The Plaintiff realleges what has been previously alleged in this Complaint.

16. Defendant City of Chicago is the indemnifying entity for the actions, described above, of Defendants Willingham, Martin, and Handzel, who took their actions while acting under color of law and in the course and scope of their employment with the City of Chicago.

WHEREFORE, should Defendants Willingham, Martin, and Handzel be found liable on one or more of the claims set forth above, the Plaintiffs demand that Defendant City of Chicago be found liable for any judgment (other than punitive damages) they obtain thereon.

COUNT V – Illinois State Law Claim of Battery –  
Plaintiff Gwendolyn White v. Defendant City of Chicago

17. The Plaintiff re-alleges the previous allegations.

18. Chicago Police Officer Willingham unjustifiably shot the Plaintiff, and this officer committed this intentional act of harmful and/or offensive contact against the Plaintiff without provocation or legal justification.

19. The actions of this Chicago Police Officer were the direct and proximate cause of the injuries suffered by the Plaintiff, as described more fully above.

20. Willingham was acting in the course and scope of his employment with the City of Chicago in taking these actions, and thus the City is liable based on a theory of respondeat superior.

WHEREFORE, Plaintiff demands compensatory damages against Defendant City of Chicago, plus the costs of this action, plus any and other additional relief as this court deems equitable and just.

COUNT VI – Illinois State Law Claim of Battery –  
Plaintiff Andre Bell v. City of Chicago.

21. The Plaintiff re-alleges the previous allegations.

22. Chicago Police Officers Willingham, Martin, and Handzel used unjustifiable physical force against the Plaintiff, as described above, and these officers committed this intentional act of harmful and/or offensive contact against the Plaintiff without provocation or legal justification.

23. The actions of these Chicago Police Officers were the direct and proximate cause of the injuries suffered by the Plaintiff, as described more fully above.

24. These officers were acting in the course and scope of their employment with the City of Chicago in taking these actions, and thus the City is liable based on a theory of respondeat superior.

WHEREFORE, Plaintiff demands compensatory damages against Defendant City of Chicago, plus the costs of this action, plus any and other additional relief as this court deems

equitable and just.

COUNT VII – Illinois State Law Claim of False Imprisonment –  
Plaintiffs Bell, Danielle Terry Spencer on behalf of Devin Spencer, and Dwayne Spencer v.  
Defendant City of Chicago

25. The Plaintiffs re-allege the previous allegations.

26. One or more Chicago Police Officers placed handcuffs on the Plaintiffs and arrested them, thus restricting their freedom of movement.

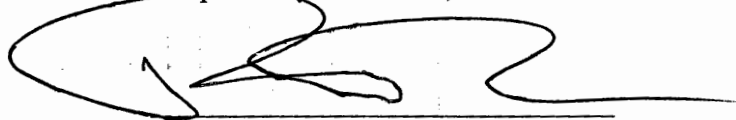
27. The actions of these Chicago Police Officers were the direct and proximate cause of the injuries suffered by the Plaintiff, as described more fully above.

28. These officers were acting in the course and scope of their employment with the City of Chicago in taking these actions, and thus the City is liable based on a theory of respondeat superior.

WHEREFORE, Plaintiffs demand compensatory damages against Defendant City of Chicago, plus the costs of this action, plus any and other additional relief as this court deems equitable and just.

**PLAINTIFFS DEMAND TRIAL BY JURY.**

Respectfully submitted,



Richard Dvorak,  
One of the Attorneys for the Plaintiffs.

Richard Dvorak  
DVORAK, TOPPEL & BARRIDO, LLC  
3859 W. 26th Street  
Chicago, IL 60623  
(773) 521-1300 (phone)  
(773) 521-4400 (fax)  
Firm No. 47327



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

GWENDOLYN WHITE,  
ANDRE BELL, DANIELLE  
TERRY SPENCER, mother  
and next of kin for and on behalf of her  
minor son, DEVIN SPENCER, and  
DWAYNE SPENCER,

Plaintiffs,

vs.

CITY OF CHICAGO,  
a municipal corporation,  
RUSS WILLINGHAM, Star #3664,  
a Chicago Police Officer,  
A.J. MARTIN, Star # 14313,  
a Chicago Police Officer,  
LANCE HANDZEL, Star #8116

Defendants.

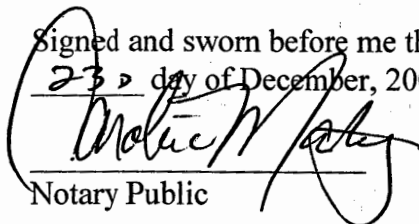
**RULE 222 AFFIDAVIT**

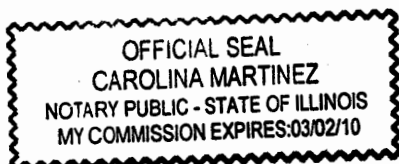
I, RICHARD DVORAK, attorney for the above Plaintiffs, hereby claim that the amount  
of damages sought in this claim exceeds fifty thousand dollars (\$50,000.00).

Affiant further sayeth naught.

  
Richard Dvorak

Signed and sworn before me this  
23<sup>rd</sup> day of December, 2008.

  
Notary Public



Richard Dvorak  
DVORAK, TOPPEL & BARRIDO, LLC.  
3859 W. 26<sup>th</sup> St.  
Chicago, IL 60623  
(773) 521-1300  
Cook County Firm No. 43727

Case 1:09-cv-00374 Document #: 1-2 Filed: 01/21/09 Page 9 of 11 PageID #: 11  
2120 - Served 2121 - Served  
2220 - Not Served 2221 - Not Served  
2320 - Served By Mail 2321 - Served By Mail  
2420 - Served By Publication 2421 - Served By Publication  
SUMMONS ALIAS - SUMMONS

Exhibit A  
Page 09 of 11

(8/01/08) CCG N001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW

1008L014170  
DIVISION MR/ROOM D  
TIME 00:00  
Tort - Intentional

No.

Gwendolyn White, Andre Bell, Danielle Terry Spencer on behalf of Devin Spencer and Dwayne Spencer

(Name all parties)

City of Chicago, Russ Willingham, A.J. Martin, and Lance Handzel

To each Defendant:

YOU ARE SUMMONED and required to file an answer to the complaint in this case, a copy of which is hereto attached, or otherwise file your appearance, and pay the required fee, in the Office of the Clerk of this Court at the following location:

- ☒ Richard J. Daley Center, 50 W. Washington, Room \_\_\_\_\_, Chicago, Illinois 60602
- |  |   |   |
|--|---|---|
| <input type="checkbox"/> District 2 - Skokie<br>5600 Old Orchard Rd.<br>Skokie, IL 60077       | <input type="checkbox"/> District 3 - Rolling Meadows<br>2121 Euclid<br>Rolling Meadows, IL 60008 | <input type="checkbox"/> District 4 - Maywood<br>1500 Maybrook Ave.<br>Maywood, IL 60153          |
| <input type="checkbox"/> District 5 - Bridgeview<br>10220 S. 76th Ave.<br>Bridgeview, IL 60455 | <input type="checkbox"/> District 6 - Markham<br>16501 S. Kedzie Pkwy.<br>Markham, IL 60426       | <input type="checkbox"/> Child Support<br>28 North Clark St., Room 200<br>Chicago, Illinois 60602 |

You must file within 30 days after service of this Summons, not counting the day of service.

IF YOU FAIL TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE RELIEF REQUESTED IN THE COMPLAINT.

To the officer:

This Summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this Summons shall be returned so endorsed. This Summons may not be served later than 30 days after its date.

Atty. No.: 43727

Name: Dvorak, Toppel & Barrido, LLC

Atty. for: Plaintiff

Address: 3859 W. 26th St.

City/State/Zip: Chicago, IL 60623

Telephone: (773) 521-1300

DOROTHY BROWN  
CLERK OF COURT  
WITNESS  
DECEMBER 4 2008



Clerk of Court

Date of service:

(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at:

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

2120 - Served 2121 - Served  
 2220 - Not Served 2221 - Not Served  
 2320 - Served By Mail 2321 - Served By Mail  
 2420 - Served By Publication 2421 - Served By Publication  
 SUMMONS ALIAS - SUMMONS

(8/01/08) CCG N001

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
 COUNTY DEPARTMENT, LAW

2008L014170  
 DIVISION MR/ROOM D  
 TIME 00:00  
 Tort - Intentional

No. \_\_\_\_\_

Gwendolyn White, Andre Bell, Danielle Terry Spencer on behalf of Devin Spencer and Dwayne Spencer

(Name all parties)

City of Chicago, Russ Willingham, A.J. Martin, and Lance Handzel

SUMMONS

To each Defendant:

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- ☐ District 2 - Skokie  
5600 Old Orchard Rd.  
Skokie, IL 60077
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2121 Euclid  
Rolling Meadows, IL 60008
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Maywood, IL 60153
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- ☐ Child Support  
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Atty. No.: 43727

Name: Dvorak, Toppel &amp; Barrido, LLC

Atty. for: Plaintiff

Address: 3859 W. 26th St.

City/State/Zip: Chicago, IL 60623

Telephone: (773) 521-1300

DOROTHY BROWN  
 CLERK OF THE COURT  
 WITNESS, \_\_\_\_\_  
 DEC 4 2008



Date of service: \_\_\_\_\_

(To be inserted by officer on copy left with defendant or other person)

Service by Facsimile Transmission will be accepted at: \_\_\_\_\_

(Area Code) (Facsimile Telephone Number)

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS



Richard M. Daley  
Mayor

Department of Police • City of Chicago  
3510 S. Michigan Avenue • Chicago, Illinois 60653

Jody P. Weis  
Superintendent of Police

13 January 2009

Ernest Mincy III  
Chief Assist Corp Counsel  
Department of Law  
30 North LaSalle, Room 800

RE: Gwendolyn White, et al. v City, et al.  
08 L 14170

Dear Mr. Mincy:

I am enclosing herewith a copy complaint in Civil Suit Number 08 L 14170 in the Circuit Court of Cook County, which names the City of Chicago as defendants.

Cook County Sherriff Department dropped off Summons and Complaints for City only no Officers January 8, 2009.

Internal Affairs Division or IPRA has been instructed initiate an investigation on this complaint.

The same is sent to you for your attention and action as you may deem appropriate.

Sincerely,

A handwritten signature in black ink that reads "William E. Bazarek" followed by a stylized flourish.

William E. Bazarek  
First Asst. General Counsel

WEB:ey

Enc.